



or development, Defendant Amazon has recently introduced its Amazon Halo product which enables a customer's cellular phone to perform a body scan and calculate a health index. On information and belief, Amazon's Halo product is based on algorithms from BodyLabs of New York, USA, which Amazon acquired in 2017. In a phone call with the named inventor of the '671 Patent, Richard Barnes, in July 2015, a representative of BodyLabs admitted that BodyLabs had "copied" the SLR '671 patent. SLR has raised this issue with Amazon both in the UK and the United States, without result, including having signed an NDA with Amazon to investigate a commercial transaction. Plaintiff has therefore been forced to bring the instant lawsuit to protect its industry-leading patented technology.

### **Parties**

2. Plaintiff SRL is a corporation organized and existing under the laws of the United Kingdom with an office located at Malvern Hills Science Park, Geraldine Road, Malvern, England, UK, WR14 3SZ.

3. Plaintiff Amazon.com, Inc. is a Delaware corporation with a principal place of business located at 410 Terry Avenue North, Seattle, Washington 98109.

4. Plaintiff Amazon.com Services, LLC is a company organized and existing under the laws of Delaware, with an office located at 11601 Alterra Pkwy., Suite 500, Austin, TX 78758-3358, is registered to do business in Texas, and is subject to service through Corporation Service Company at 211 E. 7<sup>th</sup> St., Suite 620, Austin, TX 78701.

### **Jurisdiction and Venue**

5. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338(a) as this is a claim for infringement of a U.S. patent pursuant to 35 U.S.C. § 1 et seq.,

including 35 U.S.C. § 271.

6. Defendants Amazon.com, Inc. and Amazon.com Services, LLC are subject to personal jurisdiction within Texas and this Judicial District, as each user of the Amazon Halo product App must agree to a Terms of Service agreement with Amazon.com Services, LLC as shown at:

<https://www.amazon.com/gp/help/customer/display.html?nodeId=G4HKA4W4YHJ7EPHG>

(accessed on October 14, 2020). Amazon.com Services, LLC has a regular and established place of business in this Judicial District located at 11601 Alterra Pkwy., Suite 500, Austin, TX 78758-3358, and is conducting infringing activities in this Judicial District at least by selling and offering to sell the Amazon Halo product in concert with Amazon.com, Inc. Amazon.com, Inc. and Amazon.com Services, LLC are each individually liable and are jointly and severally liable for infringement of the ‘671 Patent. Under theories of alter ego, single business enterprise liability, and agency, the conduct of each can be attributed to and considered the conduct of the others for purposes of infringement of the ‘671 Patent. Defendants have in the past and continue to hold themselves out as a single entity – “Amazon” – acting in concert, with knowledge of each other’s actions and control over each other. Venue as to Defendants is thus proper pursuant to 28 U.S.C. §§1391(b) and (c), and 1400(b).

### **Count 1: Infringement of the ‘671 Patent**

7. The ‘671 Patent, a copy of which is attached as Ex. A, is titled “HEALTH INDICATOR” and was duly and legally issued by the U.S. Patent and Trademark Office on February 12, 2013 with SRL as the assignee. Plaintiff SRL is currently the assignee of the ‘671 Patent, including standing to sue and the right to recover all past, present, and future damages for infringement of the ‘671 Patent.

8. Amazon makes, uses, sells, offers to sell, and/or imports into the United States The Amazon Halo product that infringes at least one claim of the ‘671 Patent.

9. As shown in the infringement claim chart for claim 1 of the ‘671 Patent attached as Ex. B and incorporated herein by reference, Amazon has infringed and continues to infringe (literally and/or under the doctrine of equivalents), directly, indirectly, and/or through subsidiaries, agents, representatives, or intermediaries, one or more claims of the ‘671 Patent by making, using, importing, testing, supplying, causing to be supplied, selling, and/or offering for sale in the United States its Amazon Halo product.

10. Defendants’ continuing acts of infringement have caused and will continue to cause damage to Plaintiff, and Plaintiff is entitled to recover from Defendants the damages sustained as a result of Defendants’ wrongful acts in an amount subject to proof at trial, including lost profits, but in no event less than a reasonable royalty.

11. On information and belief, Amazon has been aware of the ‘671 Patent for several years prior to the filing of this lawsuit based on information provided to Amazon by SRL pursuant to an NDA signed with Amazon EU S.a.r.l. on May 3, 2018. On information and belief, Amazon would have been aware of these infringement allegations regarding the ‘671 Patent prior to and during the launch in 2020 of the Amazon Halo product based on disclosures from its subsidiary, BodyLabs.

12. Due to Defendants’ continuing acts of willful infringement, Plaintiff is entitled to recover up to treble damages pursuant to 35 U.S.C. § 284, and an award of attorney fees pursuant to 35 U.S.C. § 285.

### **Demand for Jury Trial**

Plaintiff demands a jury trial on all issues so triable.

### **Prayer**

Plaintiff Select Research, Ltd. prays that, after trial, this Court enter judgment against Defendants as follows:

- (a) An entry of final judgment in favor of Plaintiff and against Defendants;
- (b) An award of damages adequate to compensate Plaintiff for the infringement of the '671 Patent that has occurred, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284, together with pre-judgment interest from the date the infringement began, and post-judgment interest;
- (c) A permanent injunction permanently prohibiting Defendants and all persons in active concert or participation with any of them from further acts of infringement of the '671 Patent;
- (d) Treble damages as provided for under 35 U.S.C § 284 in view of the knowing, willful, and intentional nature of Defendants' acts;
- (e) Awarding Plaintiff its costs and expenses of this litigation, including reasonable attorneys' fees and disbursements, pursuant to 35 U.S.C. § 285 on the basis that this case is exceptional due to the conduct of Defendants; and
- (f) Plaintiff have such other and further relief as the Court deems just and proper.

Dated: October 15, 2020

Respectfully submitted,

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